

ORIGINAL

**AGREEMENT BETWEEN  
THE CITY OF SAN DIEGO  
AND  
CHEN RYAN ASSOCIATES, INC.  
FOR  
PALM AVENUE REVITALIZATION PLAN**

**CONTRACT NUMBER: H146241**

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JAL 1170

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## **CONSULTANT AGREEMENT EXHIBITS**

- Exhibit A - Scope of Services
- Exhibit B - Compensation and Fee Schedule
- Exhibit C - Time Schedule
- Exhibit D - City's Equal Opportunity Contracting Program Consultant Requirements
  - (AA) Work Force Report
  - (BB) Subcontractors List
  - (CC) Contract Activity Report
  - (DD) Consultant Past Participation List
- Exhibit E - Consultant Certification for a Drug-Free Workplace
- Exhibit F - Consultant Evaluation Form
- Exhibit G - Contractor Standards Pledge of Compliance
- Exhibit H - Determination Form
- Exhibit I - Equal Benefits Ordinance Certification of Compliance
- Exhibit J - Regarding Information Requested Under the California Public Records Act
- Exhibit K - Americans With Disabilities Act (ADA) Compliance Certification

**AGREEMENT BETWEEN  
THE CITY OF SAN DIEGO  
AND CHEN RYAN ASSOCIATES, INC.  
FOR CONSULTANT SERVICES**

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation [City], and Chen Ryan Associates, Inc. [Consultant] for the Consultant to provide Services to the City for traffic engineering.

**RECITALS**

The City wants to retain the services of a traffic engineering firm to provide traffic engineering services for the Palm Avenue Revitalization Plan [the Services].

The Consultant has the expertise, experience and personnel necessary to provide the Services. The City and the Consultant [Parties] want to enter into an Agreement whereby the City will retain the Consultant to provide, and the Consultant shall provide, the Services.

In consideration of the above recitals and the mutual covenants and conditions set forth, herein, and for good and valuable consideration, the sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

**ARTICLE I  
CONSULTANT SERVICES**

The above-listed recitals are true and correct and are hereby incorporated by reference.

**1.1 Scope of Services.** The Consultant shall perform the Services as set forth in the written Scope of Services (Exhibit A) at the direction of the City

**1.2 Contract Administrator.** The Planning Department is the contract administrator for this Agreement. The Consultant shall provide the Services under the direction of a designated representative of the Planning Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise. However, when this Agreement refers to an act or approval to be performed by City, that act or approval shall be performed by the Mayor or his designee, unless the Agreement specifies otherwise.

**1.3 City Modification of Scope of Services.** The City may, without invalidating this Agreement, order changes in the Scope of Services by altering, adding to or deducting from the Professional Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in the Consultant's cost of, or the time required for, the performance of any

of the Professional Services, the Consultant shall immediately notify the City. If the City deems it appropriate, an equitable adjustment to the Consultant's compensation or time for performance may be made, provided that any adjustment must be approved by both Parties in writing in accordance with Section 9.1 of this Agreement.

**1.4 Written Authorization.** Prior to performing any Services, the Consultant shall obtain from the City a written authorization to proceed. Further, throughout the term of this Agreement, the Consultant shall immediately advise the City in writing of any anticipated change in the Scope of Services (Exhibit A), Compensation and Fee Schedule (Exhibit B), or Time Schedule (Exhibit C), and shall obtain the City's written consent to the change prior to making any changes. In no event shall the City's consent be construed to relieve the Consultant from its duty to render all Services in accordance with applicable laws and accepted industry standards.

**1.5 Confidentiality of Services.** All Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission of the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City. Except for Subcontractors covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

**1.6 Competitive Bidding.** If applicable, the Consultant shall comply with the following: Consultant shall ensure that any plans, specifications, studies, or reports prepared, required, or recommended under this Agreement allow for competitive bidding. The Consultant shall prepare such plans, specifications, studies, or reports so that procurement of services, labor or materials are not available from only one source, and shall not prepare plans, specifications, studies, or reports around a single or specific product, piece of major equipment or machinery, a specific patented design, or a proprietary process, unless required by principles of sound engineering practice and supported by a written justification that has been approved in writing by the City. The Consultant shall submit this written justification to the City prior to beginning work on such plans, specifications, studies, or reports. Whenever the Consultant recommends a specific product or equipment for competitive procurement, such recommendation shall include at least two brand names of products that are capable of meeting the functional requirements applicable to the Project.

## **ARTICLE II DURATION OF AGREEMENT**

**2.1 Term of Agreement.** This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40. Unless otherwise terminated, it shall be effective until completion of the Scope of Services or February 27, 2017 whichever is the earliest but not to exceed five years unless approved by City ordinance.

**2.2 Time of Essence.** Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement. The time for performance of the Scope of Services (Exhibit A) is set forth in the Time Schedule (Exhibit C).

**2.3 Notification of Delay.** The Consultant shall immediately notify the City in writing if the Consultant experiences or anticipates experiencing a delay in performing the Services within the time frames set forth in the Time Schedule (Exhibit C). The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of the delay. If in the opinion of the City, the delay affects a material part of the City's requirements for the Services, the City may exercise its rights under Sections 2.5-2.7 of this Agreement.

**2.4 Delay.** If delays in the performance of the Services are caused by unforeseen events beyond the control of the Parties, such delay may entitle the Consultant to a reasonable extension of time, but such delay shall not entitle the Consultant to damages or additional compensation. Any such extension of time must be approved in writing by the City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the Consultant's work; inability to obtain materials, equipment, or labor; required additional Services; or other specific reasons agreed to between the City and the Consultant; provided, however, that: (a) this provision shall not apply to, and the Consultant shall not be entitled to an extension of time for, a delay caused by the acts or omissions of the Consultant; and (b) a delay caused by the inability to obtain materials, equipment, or labor shall not entitle the Consultant to an extension of time unless the Consultant furnishes the City, in a timely manner, documentary proof satisfactory to City of the Consultant's inability to obtain materials, equipment, or labor.

**2.5 City's Right to Suspend for Convenience.** The City may, at its sole option and for its convenience, suspend all or any portion of the Consultant's performance of the Services, for a reasonable period of time not to exceed six months. In accordance with the provisions of this Agreement, the City will give written notice to the Consultant of such suspension. In the event of such a suspension, in accordance with the provisions of Article III of this Agreement, the City shall pay to the Consultant a sum equivalent to the reasonable value of the Services the Consultant has satisfactorily performed up to the date of suspension. Thereafter, the City may rescind such suspension by giving written notice of rescission to the Consultant. The City may then require the Consultant to resume performance of the Services in compliance with the terms and conditions of this Agreement; provided, however, that the Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

**2.6 City's Right to Terminate for Convenience.** The City may, at its sole option and for its convenience, terminate all or any portion of the Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Services shall be effective upon receipt of the notice by the Consultant. After termination of this Agreement, the Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of the Consultant's Services under this Agreement. For services satisfactorily rendered in completing the work, the Consultant shall be entitled to fair and reasonable compensation for the Services performed by the Consultant before the effective date



of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all documents or records related to the Consultant's Services. By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant discharges the City of all of the City's payment obligations and liabilities under this Agreement.

**2.7 City's Right to Terminate for Default.** If the Consultant fails to satisfactorily perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. A Default includes the Consultant's failure to adhere to the Time Schedule. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

### **ARTICLE III COMPENSATION**

**3.1 Amount of Compensation.** The City shall pay the Consultant for performance of all Professional Services rendered in accordance with this Agreement, including reasonably related expenses, for a total contract amount not exceeding \$229,680.00. The compensation for the Scope of Services shall not exceed \$208,800.00, and the compensation for Additional Services (described in Section 3.2), if any, shall not exceed \$20,880.00.

**3.2 Additional Services.** The City may require that the Consultant perform additional Professional Services [Additional Services] beyond those described in the Scope of Services (Exhibit A). Prior to the Consultant's performance of Additional Services, the City and the Consultant must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with the Compensation and Fee Schedule (Exhibit B). The City will pay the Consultant for the performance of Additional Services in accordance with Section 3.3.

**3.3 Manner of Payment.** The City shall pay the Consultant in accordance with the Compensation and Fee Schedule (Exhibit B). For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt.

**3.4 Additional Costs.** Additional Costs are those costs that can be reasonably determined to be related to the Consultant's errors or omissions, and may include Consultant,

City, or Subcontractor overhead, construction, materials, demolition, and related costs. The Consultant shall not be paid for the Professional Services required due to the Consultant's errors or omissions, and the Consultant shall be responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, the Consultant. Whether or not there are any monies due, or becoming due, the Consultant shall reimburse the City for Additional Costs due to the Consultant's errors or omissions.

**3.5 Eighty Percent Notification.** The Consultant shall promptly notify the City in writing of any potential cost overruns. Cost overruns include, but are not limited to the following: (1) where anticipated costs to be incurred in the next sixty calendar days, when added to all costs previously incurred, will exceed 80 percent of the maximum compensation for this Agreement; or (2) where the total cost for performance of the Scope of Services appears that it may be greater than the maximum compensation for this Agreement.

#### **ARTICLE IV CONSULTANT'S OBLIGATIONS**

**4.1 Industry Standards.** The Consultant agrees that the Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent traffic engineering firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the Mayor or his designee, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

#### **4.2 Right to Audit.**

**4.2.1 Access.** The City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subcontractor's premises to review and audit the Consultant's or Subcontractor's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of the Consultant's premises, of any and all records related to the Services provided hereunder with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This information shall be kept by the City in the strictest confidence allowed by law.

**4.2.2 Audit.** The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City determines are necessary to discover and verify that the Consultant or Subcontractor is in compliance with all requirements under this Agreement.

**4.2.2.1 Cost Audit.** If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

**4.2.2.1.1 Accounting Records.** The Consultant and all subcontractors shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. The Consultant and Subcontractors shall make available to the City for review and audit, all Service related accounting records and documents, and any other financial data. Upon the City's request, the Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to the City.

**4.2.3 City's Right Binding on Subcontractors.** The Consultant shall include the City's Right as described in Section 4.2, in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subcontractors.

**4.2.4 Compliance Required before Mediation or Litigation.** A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is the Consultant's and Subcontractors full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

**4.3 Insurance.** The Consultant shall not begin the Services under this Agreement until it has: (a) obtained, and provided to the City, insurance certificates reflecting evidence of all insurance as set forth herein; however, the City reserves the right to request, and the Consultant shall submit, copies of any policy upon reasonable request by the City; (b) obtained City approval of each company or companies as required in Section 4.3.3 of this Agreement; and (c) confirmed that all policies contain the specific provisions required in Section 4.3.4 of this Agreement. Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Except as provided for under California law, all policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the City.

Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

**4.3.1 Types of Insurance.** At all times during the term of this Agreement, the Consultant shall maintain insurance coverage as follows:

**4.3.1.1 Commercial General Liability.** Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1 million per occurrence and subject to an annual aggregate of \$2 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

**4.3.1.2 Commercial Automobile Liability.** For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

**4.3.1.3 Workers' Compensation.** For all of the Consultant's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Consultant shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

**4.3.1.4 Professional Liability.** For all of the Consultant's employees who are subject to this Agreement, the Consultant shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of \$1 million per claim and \$2 million annual aggregate. The Consultant shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the Project; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Project or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss.

**4.3.2 Deductibles.** All deductibles on any policy shall be the responsibility of the Consultant and shall be disclosed to the City at the time the evidence of insurance is provided.

#### **4.3.3 Acceptability of Insurers.**

**4.3.3.1** Except for the State Compensation Insurance Fund, all insurance required by this Contract or in the Special General Conditions shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the City.

**4.3.3.2** The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

#### **4.3.4 Required Endorsements**

The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

##### **4.3.4.1 Commercial General Liability Insurance Endorsements**

**ADDITIONAL INSURED.** To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

**PRIMARY AND NON-CONTRIBUTORY COVERAGE.** The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

#### **4.3.4.2 Automobile Liability Insurance Endorsements**

**ADDITIONAL INSURED.** To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the Consultant.

#### **4.3.4.3 Worker's Compensation and Employer's Liability Insurance Endorsements**

**WAIVER OF SUBROGATION.** The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the City.

**4.3.5 Reservation of Rights.** The City reserves the right, from time to time, to review the Consultant's insurance coverage, limits, deductible and self-insured retentions to determine if they are acceptable to the City. The City will reimburse the Consultant for the cost of the additional premium for any coverage requested by the City in excess of that required by this Agreement without overhead, profit, or any other markup.

**4.3.6 Additional Insurance.** The Consultant may obtain additional insurance not required by this Agreement.

**4.3.7 Excess Insurance.** All policies providing excess coverage to the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

**4.4 Subcontractors.** The Consultant's hiring or retaining of any third parties [Subcontractors] to perform Services [Subcontractor Services] is subject to prior approval by the

City. The Consultant shall list on the Subcontractor List (Exhibit D Attachment BB) all Subcontractors known to the Consultant at the time this Agreement is entered. If at any time after this Agreement is entered into the Consultant identifies a need for additional Subcontractor Services, the Consultant shall give written notice to the City of the need, at least forty-five days before entering into a contract for such Subcontractor Services. The Consultant's notice shall include a justification, a description of the Scope of Services, and an estimate of all costs for the Subcontractor Services. The Consultant may request that the City reduce the forty-five day notice period. The City agrees to consider such requests in good faith.

**4.4.1 Subcontractor Contract.** All contracts entered into between the Consultant and any Subcontractor shall contain the information as described in Sections 4.6 and 4.7, and shall also provide as follows:

**4.4.1.1** The Consultant shall require the Subcontractor to obtain insurance policies, as described in Section 4.3.1, and those policies shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. Furthermore, Subcontractor policy limits, and required endorsements shall be determined by the Consultant proportionate to the services performed by the Subcontractor.

**4.4.1.2** The Consultant is obligated to pay the Subcontractor, for Consultant and City-approved invoice amounts, out of amounts paid by the City to the Consultant, not later than fourteen working days from the Consultant's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Consultant and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.

**4.4.1.3** In the case of a deficiency in the performance of Subcontractor Services, the Consultant shall notify the City in writing of any withholding of payment to the Subcontractor, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subcontractor must take in order to receive the amount withheld. Once the Subcontractor corrects the deficiency, the Consultant shall pay the Subcontractor the amount withheld within fourteen working days of the Consultant's receipt of the City's next payment.

**4.4.1.4** In any dispute between the Consultant and Subcontractor, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in Article VI of this Agreement in any dispute between the Consultant and Subcontractor should the City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.

**4.4.1.5** The Subcontractor is bound to the City's Equal Opportunity Contracting Program covenants set forth in Article IV, Section 4.6 and Exhibit D of this Agreement.

**4.4.1.6** The City is an intended beneficiary of any work performed by the Subcontractor for purposes of establishing a duty of care between the Subcontractor and the City.

**4.5 Contract Activity Report.** The Consultant shall submit statistical information to the City as requested in the City's Contract Activity Report (Exhibit D Attachment CC). The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, the Consultant shall provide an invoice from each Subcontractor listed in the report. The Consultant agrees to issue payment to each firm listed in the Report within fourteen working days of receiving payment from the City for Subcontractor Services as described in Section 4.4.1.

**4.6 Non-Discrimination Requirements.**

**4.6.1 Compliance with the City's Equal Opportunity Contracting Program.** The Consultant shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements (Exhibit D). The Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Consultant shall provide equal opportunity in all employment practices. The Consultant shall ensure that its Subcontractors comply with the City's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold the Consultant liable for any discriminatory practice of its Subcontractors.

**4.6.2 Non-Discrimination Ordinance.** The Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or suppliers. The Consultant shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subcontractors, vendors and suppliers.

**4.6.3 Compliance Investigations.** Upon the City's request, the Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that the Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Consultant for each subcontract or supply contract. The Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517.] The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

**4.7 Drug-Free Workplace.** The Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. The Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form (Exhibit E ).

**4.7.1 Consultant's Notice to Employees.** The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

**4.7.2 Drug-Free Awareness Program.** The Consultant shall establish a drug-free awareness program to inform employees about all of the following:

**4.7.2.1** The dangers of drug abuse in the work place.

**4.7.2.2** The policy of maintaining a drug-free work place.

**4.7.2.3** Available drug counseling, rehabilitation, and employee assistance programs.

**4.7.2.4** The penalties that may be imposed upon employees for drug abuse violations.

**4.7.3 Posting the Statement.** In addition to Section 4.7.1 above, the Consultant shall post the drug-free policy in a prominent place.

**4.7.4 Subcontractor's Agreements.** The Consultant further certifies that each contract for Subcontractor Services for this Agreement shall contain language that binds the Subcontractor to comply with the provisions of Article IV, Section 4.7 of this Agreement, as required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and Subcontractors shall be individually responsible for their own drug-free work place program.

**4.8 Product Endorsement.** The Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

**4.9 Conflict of Interest.** The Consultant is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

**4.9.1** If, in performing the Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests. The determination as to whether any individual members of the Consultant's organization must make disclosures of relevant financial interests is set forth in the Determination Form (Exhibit H).



**4.9.1.1** Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The Consultant shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the Consultant is subject to a conflict of interest code. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

**4.9.1.2** If the City requires the Consultant to file a statement of economic interests as a result of the Services performed, the Consultant shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

**4.9.2** The Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

**4.9.3** The Consultant's personnel employed for the Services shall not accept gratuities or any other favors from any Subcontractors or potential Subcontractors. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

**4.9.4** If the Consultant violates any conflict of interest law or any of the provisions in this Section 4.9, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorneys fees and all damages sustained as a result of the violation.

**4.10 Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the City's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

**4.11 Compensation for Mandatory Assistance.** The City will compensate the Consultant for fees incurred for providing Mandatory Assistance as Additional Services under Section 3.3. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of the Consultant, its agents, officers, and employees, the Consultant shall reimburse the City. The City is then entitled to reimbursement of all fees paid to the Consultant, its agents, officers, and employees for Mandatory Assistance.

**4.12 Attorney Fees related to Mandatory Assistance.** In providing the City with dispute or litigation assistance, the Consultant or its agents, officers, and employees may incur expenses and/or costs. The Consultant agrees that any attorney fees it may incur as a result of assistance provided under Section 4.11 are not reimbursable. The Parties agree this provision

does not in any way affect their rights to seek attorney fees under Article VIII, Section 8.8 of this Agreement.

**4.13 Notification of Increased Construction Cost.** If applicable, at any time prior to the City's approval of the final plans, specifications, studies, or report, the Consultant anticipates that the total construction cost will exceed the estimated construction budget, the Consultant shall immediately notify the City in writing. This written notification shall include an itemized cost estimate and a list of recommended revisions which the Consultant believes will bring the construction cost to within the estimated construction budget. The City may either: (1) approve an increase in the amount authorized for construction; or (2) delineate a project which may be constructed for the budget amount; or (3) any combination of (1) and (2).

**4.14 ADA Certification.** The Consultant hereby certifies (Exhibit K) that it agrees to comply with the City's Americans With Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.

**4.15 Prevailing Wage Rates:** Prevailing wage rates apply to this Agreement. Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Agreement is subject to State prevailing wage laws. For construction work performed under this Agreement cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Agreement cumulatively exceeding \$15,000, the Consultant and its subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.

**4.15.1. Compliance with Prevailing Wage Requirements.** Pursuant to sections 1720 through 1861 of the California Labor Code, the Consultant and its subcontractors shall ensure that all workers who perform work under this [Agreement or Contract] are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

**4.15.1.1.** Copies of such prevailing rate of per diem wages are on file at the City and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Consultant and its subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

**4.15.1.2.** The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate

shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

**4.15.2. Penalties for Violations.** Consultant and its subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed.

**4.15.3. Payroll Records.** Consultant and its subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Consultant shall require its subcontractors to also comply with section 1776. Consultant and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. Consultant is responsible for ensuring its subcontractors submit certified payroll records to the City.

**4.15.4. Apprentices.** Consultant and its subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Consultant shall be held responsible for the compliance of their subcontractors with sections 1777.5, 1777.6 and 1777.7.

**4.15.5. Working Hours.** Consultant and subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on consultants and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

**4.15.6. Required Provisions for Subcontracts.** Consultant shall include at a minimum a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

**4.15.7. Labor Code Section 1861 Certification.** Consultant in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Agreement, Consultant certifies that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in

accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this agreement.”

**4.15.8. Labor Compliance Program.** The City has its own Labor Compliance Program (LCP) as authorized by the DIR since 2011. The City will withhold contract payments when payroll records are delinquent or deemed inadequate by the City or other governmental entity, or it has been established after an investigation by the City or other governmental entity that underpayment(s) have occurred. Any questions concerning the City’s LCP shall be directed the Equal Opportunity Compliance Program office.

## **ARTICLE V RESERVED**

## **ARTICLE VI INDEMNIFICATION**

**6.1 Indemnification and Hold Harmless Agreement.** With respect to any liability, including but not limited to claims asserted or costs, losses, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of the Consultant, or Consultant's employees, agents, and officers, arising out of any services performed under this Agreement, the Consultant agrees to defend, indemnify, protect, and hold harmless the City, its agents, officers, and employees from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party. The Consultant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the active or sole negligence or sole willful misconduct of the City, its agents, officers or employees.

## **ARTICLE VII MEDIATION**

**7.1 Mandatory Non-binding Mediation.** With the exception of Sections 2.5-2.7 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.

**7.2 Mandatory Mediation Costs.** The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator [Mediator], and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.

**7.3 Selection of Mediator.** A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator will be knowledgeable in construction aspects and

may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the Mediator is selected from a list provided by AAA, the initiating Party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees, a list of three requested Mediators marked in preference order, and a preference for available dates.

**7.3.1** If AAA is selected to coordinate the mediation [Administrator], within ten working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing Party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

**7.3.2** The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred Mediator from the individual Parties' lists who is available to serve within the designated time frame.

**7.3.3** If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be mutually agreed upon.

**7.4 Conduct of Mediation Sessions.** Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

**7.4.1** Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

**7.4.2** Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

## **ARTICLE VIII INTELLECTUAL PROPERTY RIGHTS**

**8.1 Work For Hire.** All original designs, plans, specifications, reports, documentation, and other informational materials, whether written or readable by machine, originated or prepared exclusively for the City pursuant to this Agreement (Deliverable Materials) is "work for hire" under the United States Copyright law and shall become the sole property of the City. The Consultant, including its employees, and independent

Subcontractor(s), shall not assert any common law or statutory patent, copyright, trademark, or any other intellectual proprietary right to the City to the deliverable Materials.

**8.2. Rights in Data.** All rights (including, but not limited to publication(s), registration of copyright(s), and trademark(s) in the Deliverable Materials, developed by the Consultant, including its employees, agents, talent and independent Subcontractors pursuant to this Agreement are the sole property of the City. The Consultant, including its employees, agents, talent, and independent Subcontractor(s), may not use any such Product mentioned in this article for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

**8.3 Intellectual Property Rights Assignment.** Consultant, its employees, agents, talent, and independent Subcontractor(s) agree to promptly execute and deliver, upon request by City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials; and cooperate and assist in the prosecution of any action or opposition proceeding involving said rights and any adjudication of the same.

**8.4 Moral Rights.** Consultant, its employees, agents, talent, and independent Subcontractor(s) hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Deliverable Materials which Consultant, its employees, agents, talent, and independent Subcontractor(s), may now have or which may accrue to Consultant, its employees, agents, talent, and independent Subcontractor(s)' benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity in or to the Deliverable Materials and the right to object to any modification, translation or use of said content, and any similar rights existing under judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

**8.5 Subcontracting.** In the event that Consultant utilizes a Subcontractor(s) for any portion of the Work that is in whole or in part of the specified Deliverable(s) to the City, the agreement between Consultant and the Subcontractor [Subcontractor Agreement] shall include a statement that identifies that the Deliverable/Work product as a "work-for hire" as defined in the Act and that all intellectual property rights in the Deliverable/Work product, whether arising in copyright, trademark, service mark or other belongs to and shall vest solely with the City. Further, the Subcontractor Agreement shall require that the Subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to the City, all titles, rights and interests in and to said Work/Deliverable, including all copyrights and other intellectual property rights. City shall have the right to review any Subcontractor agreement for compliance with this provision.

**8.6 Publication.** Consultant may not publish or reproduce any Deliverable Materials, for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

**8.7 Intellectual Property Warranty and Indemnification.** Consultant represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Consultant to produce, at Consultant's own expense, new non-infringing materials, deliverables or Works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Consultant further agrees to indemnify and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services or Works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Consultant receives payment under this contract, City shall be entitled, upon written notice to Consultant, to withhold some or all of such payment.

**8.8 Enforcement Costs.** The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Article 8, including but not limited to, attorney's fees.

**8.9 Ownership of Documents.** Once the Consultant has received any compensation for the Professional Services performed under this Agreement, all documents, including but not limited to, original plans, maps, studies, sketches, drawings, computer printouts and disk files, and specifications prepared in connection with or related to the Scope of Services or Professional Services, shall be the property of the City.

## **ARTICLE IX MISCELLANEOUS**

**9.1 Notices.** In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: Planning Department, 1222 First Avenue, San Diego, CA 92101, Attn: Michael Prinz, MS413 and notice to the Consultant shall be addressed to: Chen Ryan Associates, Inc., 239 Laurel Street, Suite 203 San Diego, CA 92101.

**9.2 Headings.** All article headings are for convenience only and shall not affect the interpretation of this Agreement.

**9.3 Non-Assignment.** The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

**9.4 Independent Contractors.** The Consultant and any Subcontractors employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

**9.5 Consultant and Subcontractor Principals for Consultant Services.** It is understood that this Agreement is for unique Professional Services. Retention of the Consultant's Professional Services is based on the particular professional expertise of the following members of the Consultant's organization: Sherry Ryan [Project Team]. Accordingly, performance of Professional Services on the Project may not be delegated to other members of the Consultant's organization or to Subcontractors without the prior written consent of the City. It is mutually agreed that the members of the Project Team are the principal persons responsible for delivery of all Professional Services and may not be removed from the Project without the City's prior written approval. Removal of any member of the Project Team without notice and approval by the City may be considered a default of the terms and conditions of this Agreement by the Consultant. In the event any member of the Project Team becomes unavailable for any reason, the City must be consulted as to any replacement. If the City does not approve of a proposed replacement, the City may terminate this Agreement pursuant to section 2.6 of this Agreement. Further, the City reserves the right, after consultation with the Consultant, to require any of the Consultant's employees or agents to be removed from the Project.

**9.6 Covenants and Conditions.** All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant, shall be deemed to be both covenants and conditions.

**9.7 Compliance with Controlling Law.** The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

**9.8 Jurisdiction and Attorney Fees.** The jurisdiction and applicable laws for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in accordance with the laws of the State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.

**9.9 Successors in Interest.** This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

**9.10 Integration.** This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, amendment, or modification of the terms or conditions of



this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this Agreement.

**9.11 Counterparts.** This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

**9.12 No Waiver.** No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

**9.13 Severability.** The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

**9.14 Additional Consultants or Contractors.** The City reserves the right to employ, at its own expense, such additional Consultants or contractors as the City deems necessary to perform work or to provide the Services.

**9.15 Employment of City Staff.** This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council or Mayor in connection with the selection of the Consultant.

**9.16 Municipal Powers.** Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

**9.17 Drafting Ambiguities.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

**9.18 Signing Authority.** The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

**9.19 Conflicts Between Terms.** If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

**9.20 Consultant Evaluation.** City will evaluate Consultant's performance of Services using the Consultant Evaluation Form (Exhibit F).

**9.21 Exhibits Incorporated.** All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

**9.22 Survival of Obligations.** All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive, completion and acceptance of the Professional Services and termination or completion of the Agreement.

**9.23 Contractor Standards.** This Agreement is subject to the Contractor Standards clause of the Municipal Code Chapter 2, Article 2, Division 32 adopted by Ordinance No. O-19383. All consultants are required to complete the Contractor Standards Pledge of Compliance included herein as Exhibit G. The Contractor Standards are available online at [www.sandiego.gov/purchasing/vendor/index.shtml](http://www.sandiego.gov/purchasing/vendor/index.shtml) or by request from the Purchasing & Contracting Department by calling (619) 236-6000.

**9.24 Equal Benefits Ordinance.** This Agreement is subject to the Equal Benefits Ordinance [EBO]. All consultants are required to complete the Equal Benefits Ordinance Certification of Compliance included herein as Exhibit I. Effective January 1, 2011, any contract awarded from this solicitation is subject to the City of San Diego's Equal Benefits Ordinance [EBO], Chapter 2, Article 2, Division 43 of the San Diego Municipal Code [SDMC].

In accordance with the EBO, contractors must certify they will provide and maintain equal benefits as defined in SDMC §22.4302 for the duration of the contract [SDMC §22.4304(f)]. Failure to maintain equal benefits is a material breach of the contract [SDMC §22.4304(e)]. Contractors must notify employees of their equal benefits policy at the time of hire and during open enrollment periods and must post a copy of the following statement in an area frequented by employees:

During the performance of a contract with the City of San Diego, this employer will provide equal benefits to its employees with spouses and its employees with domestic partners.

Contractors also must give the City access to documents and records sufficient for the City to verify the contractors are providing equal benefits and otherwise complying with EBO requirements. Full text of the EBO and the Rules Implementing the Equal Benefits Ordinance

are posted on the City's website at [www.sandiego.gov/purchasing/](http://www.sandiego.gov/purchasing/) or can be requested from the Equal Benefits Program at (619) 533-3948.

**9.25 Public Records.** This contract is public document subject to the California Public Records Act, and as such may be subject to public review per Exhibit J (Regarding Information Requested under the California Public Records Act).

*The remainder of this page has intentionally been left blank.*

ORIGINAL

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor, pursuant to Municipal Code Section 22.3207, authorizing such execution, and by the Consultant pursuant to Chen Ryan Associates, Inc. signature authority document.

Dated this 15<sup>th</sup> day of January, 2015.

THE CITY OF SAN DIEGO  
Mayor or Designee

By: 

W. Downs Prior  
Principal Contract Specialist  
Public Works Contracts

I HEREBY CERTIFY I can legally bind Chen Ryan Associates, Inc. and that I have read all of this Agreement, this 27<sup>th</sup> day of October, 2014.

By: 

Sherry Ryan  
Principal

I HEREBY APPROVE the form and legality of the foregoing Agreement this 20<sup>th</sup> day of January, 2015.

JAN I. GOLDSMITH, City Attorney

By: 

Deputy City Attorney

RECEIVED  
CITY CLERK'S OFFICE

15 JAN 23 AM 10:48

SAN DIEGO, CALIF.

## **CONSULTANT AGREEMENT EXHIBITS**

- Exhibit A - Scope of Services
- Exhibit B - Compensation and Fee Schedule
- Exhibit C - Time Schedule
- Exhibit D - City's Equal Opportunity Contracting Program Consultant Requirements
  - (AA) Work Force Report
  - (BB) Subcontractors List
  - (CC) Contract Activity Report
  - (DD) Consultant Past Participation List
- Exhibit E - Consultant Certification for a Drug-Free Workplace
- Exhibit F - Consultant Evaluation Form
- Exhibit G - Contractor Standards Pledge of Compliance
- Exhibit H - Determination Form
- Exhibit I - Equal Benefits Ordinance Certification of Compliance
- Exhibit J - Regarding Information Requested Under the California Public Records Act
- Exhibit K - Americans With Disabilities Act (ADA) Compliance Certification

# **SCOPE OF SERVICES**

The Palm Avenue Revitalization Plan will be used to guide future urban design, streetscape and mobility improvements along Palm Avenue. The project area encompasses Palm Avenue from Interstate 5 on the east to the City of Imperial Beach on the west.

## **1.0 PROJECT ADMINISTRATION AND MANAGEMENT**

### **1.1 Project Management**

Chen Ryan will identify a project manager, to be approved by the City's project manager, who will serve as the day-to-day contact, providing overall project direction and oversight of the team's work, ensuring the quality and timeliness of all study products and deliverables.

### **1.2 Communications:**

The Chen Ryan project manager will maintain consistent and timely communication with the City's project manager through the duration of the project. Chen Ryan will attend a kick-off meeting with the City to clarify roles and responsibilities, communication methods, and establish a schedule. The Chen Ryan project manager will also ensure internal coordination among subconsultants.

### **1.3 Quality Control:**

Chen Ryan will conduct internal quality control for all deliverables identified within this scope of work.

### **1.4 Schedule:**

Chen Ryan will develop a detailed project schedule in Microsoft Project format to be approved by the City's project manager. The schedule will include all major phases of the study, detailed project activities, and deliverable milestones. The project manager will update the schedule on a monthly basis or as changes in expected timing occur.

### **1.5 Coordination Meetings:**

Chen Ryan will organize and facilitate materials for monthly coordination meetings with the City. These meetings will include an update on project status and the structured review of interim work products to ensure input at key junctures in the planning process. Chen Ryan will also be responsible for preparing all materials, including agendas, draft work products and/or presentations and documenting outcomes and key action steps in meeting minutes.

### **1.6 Verbal Updates**

Chen Ryan will hold bi-monthly calls with the City's project manager to provide regular updates on project status, upcoming activities and deliverables, and any issues.

### **1.7 Invoices and Progress Memos**

Chen Ryan will prepare monthly reports and invoices reflecting study progress and activities in Microsoft Word and Excel for all documentation.

#### **Deliverables:**

- Project Schedule
- Meeting Participation, Agendas and Notes
- Monthly Progress Memos and Invoices

## **2.0 COMMUNITY OUTREACH & PARTICIPATION**

### **2.1 Outreach & Participation Plan**

Chen Ryan will prepare a Community Outreach and Participation Plan (Plan) that outlines:

- Engagement goals;
- Target audiences and stakeholders;
- Specific input programs and activities;
- Outreach materials and methods; and
- Number of and key dates for workshops and meetings;

The Plan will include both external and internal stakeholder coordination. Chen Ryan will collaborate with the City to develop the detail of the Plan and to form a stakeholder working group as desired. Chen Ryan will develop a fact sheet outlining the project purpose, schedule, participation opportunities, and contact information for printed or electronic distribution.

Chen Ryan will ensure that all key materials, such as project fact sheets, the mobility questionnaire, and workshop handouts are available in English and Spanish. Chen Ryan will also provide Spanish language facilitation at community workshops and other outreach events as determined by the City's project manager. Chen Ryan will organize and conduct two (2) community workshops during the plan process.

Chen Ryan will provide drafts of all outreach materials to be approved by the City's project manager prior to public distribution.

### **2.2 Multi-Pronged Opportunities/Constraints Outreach**

The initial outreach effort will be focused on a "dispersed" style of small group and event-based meetings, as well as intercepting community members walking, cycling and using transit along the study corridor. This phase of the outreach will correspond with the existing conditions and base maps/report phase of the study. The purpose of this multi-pronged effort is to introduce the project, gather input to identify opportunities, challenges, and community priorities for Palm Avenue to assist in developing the vision, concepts, and eventual recommendations, and to confirm our understanding of mobility, land use, design, and safety conditions along the corridor. Chen Ryan will identify a set of up to four (4) community events and no more than four (4) meetings that are already occurring and attend these events/meetings with survey materials, maps and images that will facilitate receiving information from attendees. Chen Ryan may also identify nearby churches and schools where we can schedule informal outreach sessions and community interviews. Chen Ryan will prepare materials for a project website to be embedded within the City's website and distributed to community email lists as determined by the City's project manager.

### **2.3 Community Workshop 1**

The first community workshop will correspond with the urban design visioning and mobility phase of the study. The purpose of this session will be to recap public input, including questionnaire results, confirm the vision for the corridor, and gather feedback on the mobility and urban design scenarios. As an interactive exercise, Chen Ryan will use wireless audience response (WAR) technology to ask attendees to rank or assign a level of importance to the scenarios.

The WAR system displays instantaneous polling results in PowerPoint when participants select a preference from among a set of choices. This workshop will generate specific feedback to refine concepts and select a preferred Plan.

### **2.4 Community Workshop 2**

The second workshop will correspond with the Multi-Modal Mobility Recommendations and Concept Plan phase of the study. The purpose of this session is to demonstrate the link between feedback received on the scenarios and development of the Concept Plan. Chen Ryan will use the input from this workshop to develop and prioritize the improvement project list.

### **2.5 CPG Updates**

City staff will provide three (3) updates to the Otay Mesa-Nestor Community Planning Group at their regularly scheduled meetings. Chen Ryan will assist the City in preparing materials for use in these briefings.

### **2.6 Multi-Modal Mobility Questionnaire:**

Chen Ryan will develop a short, written questionnaire for use at community events and to conduct informal interviews (mobility questionnaire). As part of the interview, a facilitator will approach willing participants and explain the project purpose. The facilitator will then record responses and follow up questions. As appropriate the facilitation team will include a Spanish speaker. Chen Ryan will design the questionnaire and interviews to produce input that is similar to the community workshops, to be approved by the City's project manager. Chen Ryan will also consult with the City to develop an online platform to collect feedback.

### **2.7 Walk & Cycling Audits**

Chen Ryan will conduct one (1) in-person walk audit and one (1) bicycle audit to supplement existing information and data collection efforts and to gain a better understanding of the pedestrian and cycling experience along Palm Avenue. Chen Ryan will invite community members, City staff, and representatives of other key interest groups to join the project team during the field review and share their experiences. During the investigation, Chen Ryan will note field measurements and use digital photography to document system opportunities and constraints, and record site-specific information such as levels and locations of use, facility condition, and key gaps or obstacles encountered by pedestrians and cyclists within the project area. During the cycling audit, members of the project team will traverse the approximately one-mile project corridor by bicycle to identify opportunities to make the area more bicycle friendly. The field experience will be a vital component to inform the project team of the corridor's potential and to develop an urban design vision for a truly multi-modal corridor.



## **2.8 Draft Plan Open House**

The final community outreach event will correspond with the draft plan phase. Chen Ryan will conduct this session in an open house format with recommended mobility and design concepts displayed on boards. Members of the public will have an opportunity to review exhibits, ask detailed questions of team members and other stakeholders, review the full draft plan, and comment on recommendations. Chen Ryan will use the feedback to finalize the study.

### **Deliverables:**

- Outreach & Participation Plan; Website; Project Summary Sheets
- Workshop 1 and 2 - Notices; Summaries; Presentation Materials; Photos; Sign-in sheet.
- Updates; Presentations Materials
- Mobility Questionnaire; Result Summary
- Walk Audit; Audit Route Maps; Walk Audit Summaries
- Bike Audit; Audit Route Maps; Bike Audit Summaries
- Draft Plan Open House; Notices; Summaries; Presentation Materials; Photos; Sign-in sheet.

## **3.0 EXISTING CONDITIONS & BASE MAPS/REPORT**

### **3.1 Land Use Assessment**

City staff will prepare base maps of existing land uses, planned land uses, and zoning along the corridor. The City will document maximum land use quantities by use type for analysis of future year conditions and travel demands along the corridor to be used for the mobility assessment.

### **3.2 Mobility Assessment**

Chen Ryan will conduct a multi-modal analysis of existing conditions, including bicycle and pedestrian facilities, transit integration and traffic operations analysis, to help identify priority areas for improvement. While vehicular analysis is based on facility operations, multi-modal level of service (MMLOS) for pedestrian, transit, auto, and bicycle facilities is evaluated relative to the user's perception of the quality of the environment or systems while using these modes. Exposure to harsh conditions, noise, lack of shading, high winds, lack of lighting, lack of amenities, lack of buffers between vehicles and the walking/cycling environments, lack of transit services, and adjacent land uses will be recorded. Information to be recorded during field reviews includes the following:

- |  |  |
|--|--|
| • Lane widths,                             | • Location and presence of turn lanes, |
| • Posted speeds,                           | • Presence of street furniture,        |
| • Traffic volumes,                         | • Curb ramp locations,                 |
| • Traffic controls,                        | • Sidewalk obstructions and gaps,      |
| • Transit ridership and service frequency, | • Pavement condition,                  |
| • Transit stop amenities,                  | • Existing bicycle facilities, and     |
| • Location of on-street parking,           | • Barriers to cyclists.                |

The MMLOS will provide quantitative assessments of the user experience. The methodology to be employed was developed under the National Cooperative Highway Research Program (NCHRP) Project 3-70, Multimodal Level of Service for Urban Streets, and is included in the Highway Capacity Manual 2010 (HCM 2010). This method evaluates, by mode, the feel, comfort, accessibility and safety of an urban street based upon the design, control and operations of the roadway.

The following existing conditions analyses will be conducted as part of this task:

- Peak Hour Intersection Level of Service Analysis
- Daily Roadway Segment Level of Service Analysis
- Arterial Speed Analysis
- VISSUM Micro-Simulation Model
- Freeway Segment Analysis, if necessary
- Ramp Meter Analysis, if necessary
- ICE Analysis, if necessary

The following eight (8) intersections will be analyzed as part of the mobility assessment:

1. 13<sup>th</sup> Street / Palm Avenue
2. 16<sup>th</sup> Street / Palm Avenue
3. Saturn Boulevard / Southland Plaza Shopping Center Driveway
4. Saturn Boulevard / Palm Avenue
5. Saturn Boulevard / Donax Avenue
6. I-5 SB Ramps / Palm Avenue
7. I-5 NB Ramps / Palm Avenue
8. Hollister Street / Palm Avenue

Chen Ryan may analyze up to an additional 2 intersections based on discussions with City staff about the scope of the final study area. The following fifteen (15) roadway segments within the City of San Diego will be analyzed as part of the mobility assessment:

1. Palm Avenue, between 13<sup>th</sup> Street and 16<sup>th</sup> Street
2. Palm Avenue, between 16<sup>th</sup> Street and Saturn Boulevard
3. Palm Avenue, between Saturn Street and the I-5 SB Ramps
4. Palm Avenue, between the I-5 SB Ramps and the I-5 NB Ramps
5. Palm Avenue, between the I-5 NB Ramps and Hollister Street
6. Palm Avenue, between Hollister Street and Beyer Boulevard
7. Donax Avenue, between 13<sup>th</sup> Street and 16<sup>th</sup> Street
8. Donax Avenue, between 16<sup>th</sup> Street and Saturn Boulevard
9. 13<sup>th</sup> Street, between Northern Terminus and Palm Avenue
10. Saturn Boulevard, between Northern Terminus and Southland Plaza Shopping Center Driveway
11. Saturn Boulevard, between Southland Plaza Shopping Center Driveway and Palm Avenue
12. Saturn Boulevard, between Palm Avenue and Donax Avenue
13. Saturn Boulevard, between Donax Avenue and Coronado Boulevard
14. Hollister Street, between Main Street and Palm Avenue
15. Hollister Street, between Palm Avenue and Coronado Boulevard

Chen Ryan may analyze up to an additional 4 roadway segments based on discussions with City staff about the scope of the final study area.

### **3.3 Safety Analysis**

Collision data (injuries and fatalities) for all modes, bicycle, pedestrian, and vehicle, for the past five years will be collected, evaluated and mapped to identify locations with relatively higher numbers of incidents. Potential resources to obtain collision data includes the Statewide Integrated Traffic Records System (SWITRS) database, local law enforcement, and the City of San Diego's Transportation Engineering Operations Division. Chen Ryan will use information derived from this analysis to identify specific locations in need of safety enhancements. In addition to collision locations, Chen Ryan will analyze collision time of day, day of week, victim ages, and collision causes to inform proposed modifications for enhancing the safety of all

roadway users. Safety improvements and recommendations may be related to engineering enhancements, education of roadway users, and/or increased enforcement.

**Deliverables:**

- Draft Technical Memos for review of each analysis (Mobility and Safety)
- Existing Conditions Report and Base Maps

## **4.0 URBAN DESIGN VISIONING & STRATEGY**

### **4.1 Opportunities & Constraints Mapping**

Along with data analysis and plan review, Chen Ryan will perform a physical review of the corridor to obtain an in-depth sense of opportunities and constraints. Chen Ryan will organize findings on a map of the project area to illustrate key project elements related to land use, mobility, connectivity, safety, community amenities, services, parks and open spaces, including the 95-acre Pond 20, aesthetics and design character, and property and infrastructure conditions. Chen Ryan will also document findings in a photo gallery and field notes.

### **4.2 Urban Design Vision**

The community has articulated a vision for this stretch of Palm Avenue in the Otay Mesa-Nestor Community Plan. Based on community and stakeholder input and analysis, Chen Ryan will revisit and build on this vision to create a framework that promotes a safe, attractive, vibrant, and sustainable corridor.

As part of this effort, Chen Ryan team designers and planners will develop a set of general guidelines for the public realm of Palm Avenue, including the following elements:

- Streetscape
- Street Furniture
- Pedestrian Infrastructure
- Bicycle Infrastructure
- Transit Infrastructure
- Public Art
- Lighting
- Signs/Wayfinding
- Utilities
- Sustainability and Green Infrastructure
- Open Space and Landscaping
- Setback Requirements

Previous guideline language from the Community Plan emphasized opportunities for intensified land use; creating a pedestrian-friendly environment by providing landscape or on-street parking areas as buffers between the sidewalk and the traffic lanes, and creating a streetscape that establishes a sense of place, and highlights the corridor as a gateway from Coronado and Imperial Beach to San Diego.

Chen Ryan will use photos to show best practices in design and prepare concept illustrations to convey the look and feel of the corridor. The graphics, which may include a digital model, sectional studies, or 3 dimensional visual simulations, will place the proposed improvements in context, demonstrate how the corridor can accommodate multiple travel modes, and clearly illustrate the spatial relationships among mobility elements, the public realm, adjoining private development, and other connectivity opportunities.

**Deliverables:**

- Opportunities & Constraints Mapping
- Urban Design Visioning Report & Graphics

## **5.0 MULTI-MODAL MOBILITY STUDY**

### **5.1 Future Multi-Modal Conditions Analysis**

Chen Ryan will conduct future year analysis of travel demand and traffic volumes reflecting projected buildout of Palm Avenue and neighboring land uses for the current adopted plan and up to two (2) mobility network alternatives. Similar to the mobility assessment, the future multi-modal conditions analysis will have a complete street focus and evaluate all modes of transportation (pedestrian, bicycle, transit, and auto) serving the project area. Forecast transit ridership will be obtained from SANDAG for future transit analysis. Transit service evaluation will examine the level of service, transit performance, accessibility and linkages to existing and future land uses. The SANDAG Series 12 traffic model future forecast 2035 volumes will be reviewed and compared to the existing conditions ADT volumes and the previously calibrated SANDAG Series 11 model. Chen Ryan staff will work closely with SANDAG to forecast VMT, VHT, mode share, and daily traffic volumes for the current plan and alternatives.

Chen Ryan may determine that future alternatives do not require modeling via the SANDAG Transportation Model to obtain future volumes associated with mobility network alternatives, since land uses are assumed to remain constant. If so, this approach will need to be approved by the City's project manager.

Chen Ryan will evaluate factors affecting pedestrian safety, connectivity, and accessibility as related to proposed increases to residential densities and mixed use projects. Planned bicycle facilities included in the City of San Diego's Bicycle Master Plan Update will be evaluated to address deficiencies based on projected future needs.

### **5.2 Intersection Control Evaluation**

Chen Ryan will coordinate with Caltrans to conduct Intersection Control Evaluation (ICE) analysis for study intersections, as necessary, along the Palm Avenue project area corridor in accordance with Caltrans Traffic Operations Policy Directive 13-02. This evaluation process

will help the project team identify the need to install, or potentially downgrade, traffic controls including traffic signals, yield-control or roundabouts, and multi-way stop controls. The initial assessment/screening of the intersection will provide for the identification of one or more potential control strategies for further consideration, upon which an engineering analysis will examine potential performance and safety implications and investments. The analysis will provide for the development of estimations regarding the effectiveness and impacts of specific control strategies. The ICE process will be undertaken with the objective of balancing the needs of all transportation modes and roadway users while improving both safety and efficiency.

### **5.3 Multi-Modal Mobility Recommendations & Concept Plan**

Based on the results of the mobility assessment, safety analysis, future conditions analysis and intersection control evaluation, Chen Ryan will develop mobility and safety recommendations and a concept plan that enhances the quality and safety of the roadway environment for all transportation modes. Chen Ryan will explore both traditional and innovative enhancement measures related to bicycle facilities and intersection treatments, pedestrian crossings and signals, transit priority measures, traffic calming measures and control devices. Examples of recommendations to be thoroughly evaluated may include, but not be limited to, the following:

- Bicycle – Class I facilities, cycle track protected facilities, median bikeway, short- and long-term bicycle parking, intersection treatments such as high-visibility paint and bike boxes.
- Pedestrian – Raised crosswalks, pedestrian lead interval crossings, high intensity activated crosswalk beacons, pedestrian refuge, pedestrian scaled lighting and wayfinding, pedestrian amenities, and curb bulb-outs.
- Vehicular – Parking location and management strategies, roundabouts, and traffic signal timing.
- Transit – Transit stop shelters, seating, and amenities, and dedicated transit lanes.
- Streetscape Design – Landscape treatments, green streets, storm water runoff, street furniture, and setback requirements.

### **5.4 Mobility Improvement Project List**

Following the identification of improvement recommendations and a concept plan, Chen Ryan will develop concept illustrations and costs. Chen Ryan will display the illustrations in a user-friendly format to be approved by the City's project manager that allows for clear interpretation by community members about the proposed recommendations, while still containing vital technical information. The conceptualizations will include both plan views and additional elevated perspectives to give the viewer a better sense of the realized projects. In addition to concept illustrations, Chen Ryan will include project descriptions and estimated costs.

#### **Deliverables**

- Draft Technical Memos for Incremental Review of Travel Forecasts and Mobility Analysis
- Multi-Modal Conditions Analysis Report
- Caltrans Intersection Control Evaluation Analysis (as necessary)
- Multi-Modal Mobility and Safety Recommendations & Concept Plan
- Mobility Improvement Project List (10 Projects); Project Concept Illustrations

## **6.0 IMPLEMENTATION STRATEGY**

Chen Ryan will prepare an action plan for all mobility and supporting design improvements identified in the Concept Plans. Chen Ryan will prepare City of San Diego Project Estimation Sheets, which includes project descriptions, cost estimates and photos of the current area proposed for improvement for up to ten (10) projects.

Chen Ryan will work with the City to determine implementation mechanisms and appropriate funding strategies for infrastructure improvements. This plan will weigh recommended improvements against likely funding sources to produce a capital improvements prioritization strategy.

### **Deliverable:**

- Implementation Strategy, up to ten (10) Project Estimation Sheets, pictures of current conditions, and funding recommendations

## **7.0 DRAFT & FINAL REVITALIZATION PLAN**

### **7.1 Draft Revitalization Plan**

Chen Ryan will organize all text, findings, maps, graphics and recommendations into a user-friendly draft study report for review and comment by City staff and project stakeholders. Chen Ryan will summarize and analyze all comments received and revise the draft document in accordance with input.

### **7.2 Final Revitalization Plan**

Following revisions, Chen Ryan will issue the final report, which will include an executive summary, supporting technical appendices, and a highly graphic standalone summary suitable for public distribution. Chen Ryan will also make the document available for public review and comment both online and in printed form at conveniently accessible locations in the community as determined by the City's project manager.

### **7.3 City Council Adoption of Final Study**

Following the completion of the draft final study, Chen Ryan will present the Plan to City Council for adoption.

### **Deliverables:**

- Ten (10) printed copies of the Draft Revitalization Plan
- Ten (10) printed copies and Ten (10) CDs, in color, of the Final Revitalization Plan, including an Executive Summary that can be used as a stand-alone document; GIS mapping data
- City Council Resolution

## COMPENSATION AND FEE SCHEDULE

Task	Cost
<b>Task 1: Project Administration and Management</b>	<b>\$26,220</b>
<b>Task 2: Community Outreach and Participation</b>	<b>\$54,040</b>
2.1 - Outreach and Participation Plan	\$5,300
2.2 - Multi-Pronged Opportunities/Constraints Outreach	\$5,810
2.3 - Community Workshop 1	\$9,220
2.4 - Community Workshop 2	\$9,220
2.5 - CPG Updates	\$6,190
2.6 - Multi-Modal Mobility Questionnaire	\$4,440
2.7 - Walk & Cycling Audits	\$5,500
2.8 - Draft Plan Open House	\$8,360
<b>Task 3: Existing Conditions &amp; Base Maps/Reports</b>	<b>\$23,500</b>
3.1 - Land Use Assessment	\$0
3.2 - Mobility Assessments	\$15,660
3.3 - Safety Analysis	\$7,840
<b>Task 4: Urban Design Visioning &amp; Strategy</b>	<b>\$24,460</b>
4.1 - Opportunities & Constraints Mapping	\$8,920
4.2 - Urban Design Vision	\$15,540
<b>Task 5: Multi-Modal Mobility Study</b>	<b>\$58,200</b>
5.1 - Future Multi-Modal Conditions Analysis	\$19,960
5.2 - Intersection Control Evaluation	\$6,760
5.3 - Multi-Modal Mobility Recommendations and a Concept Plan (Includes Cost Estimating Sheets)	\$23,600
5.4 - Mobility Improvement Project List	\$7,880
<b>Task 6: Implementation Strategy</b>	<b>\$11,160</b>
<b>Task 7: Draft and Final Revitalization Plan</b>	<b>\$11,220</b>
<b>10% CONTINGENCY</b>	<b>\$20,880</b>
<b>Total</b>	<b>\$229,680</b>

# TIME SCHEDULE

Task	M1	M2	M3	M4	M5	M6	M7	M8	M9	M10	M11	M12	M13	M14
1.0 Project Management														
2.0 Community Outreach														
3.0 Existing Conditions Report														
3.1 Land Use Assessment														
3.2 Mobility Assessment														
3.3 Safety Assessment														
4.0 Urban Design Visioning														
4.1 Circulation and Connectivity														
4.2 Urban Design Vision														
5.0 Multi-Modal Mobility Study														
5.1 Future Conditions														
5.2 Interaction Analysis														
5.3 Multi-Modal Recommendations														
5.4 Mobility Improvement Project List														
6.0 Implementation Strategy														
7.0 Draft & Final Revitalization Plan														

M1 = One month from Notice to Proceed

Project Team & Stakeholder Meeting

Work & Site Audit

Two Community Workshops

City Council Presentation





## EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)

### CONSULTANT REQUIREMENTS

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- I. **City's Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees and Subcontractors of Consultants doing business with the City. The City encourages its Consultants to share this commitment. Consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer consulting opportunities to all eligible Subcontractors. *Failure to submit the required EOCP documentation indicated below shall result in a determination of the Consultant being non-responsive.*
- II. **Nondiscrimination in Contracting Ordinance.** All Consultants doing business with the City, and their Subcontractors, must comply with requirements of the City's *Nondiscrimination in Contracting Ordinance*, San Diego Municipal Code Sections 22.3501 through 22.3517.
- A. Proposal Documents to include Disclosure of Discrimination Complaints. As part of its bid or proposal, Consultant shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Consultant in a legal or administrative proceeding alleging that Consultant discriminated against its employees, Subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
- B. Contract Language. The following language shall be included in contracts for City projects between the Consultant and any Subcontractors, vendors, and suppliers:

Contractor shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Consultant shall provide equal opportunity for Subcontractors to participate in opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

- C. Contract Disclosure Requirements. Upon the City's request, Consultant agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within County of San Diego, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance, Municipal Code Sections 22.3501 through 22.3517. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment and other sanctions.

III. **Equal Employment Opportunity Outreach Program.** Consultants shall comply with requirements of San Diego Municipal Code Sections 22.2701 through 22.2707. Consultants shall submit with their proposal a Work Force Report for approval by the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP).

- A. Nondiscrimination in Employment. Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Consultants shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Consultant liable for any discriminatory practice of its subcontractors.
- B. Work Force Report. If based on a review of the Work Force Report (Attachment AA) submitted an EOCP staff Work Force Analysis determines there are under representations when compared to County Labor Force Availability data, then the Consultant will also be required to submit an Equal Employment Opportunity (EEO) Plan to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval.
- C. Equal Employment Opportunity Plan. If an Equal Employment Opportunity Plan is required, the Program Manager of EOCP will provide a list of plan requirements to Consultant.

IV. **Small and Local Business Program Requirements.** The City has adopted a Small and Local Business Enterprise (SLBE) program for consultant contracts. SLBE program requirements for consultant contracts are set forth Council Policy 100-10.

A. SLBE and ELBE Participation for Contracts Valued Over \$50,000:

1. For proposals ranking as qualified or acceptable, or any higher ranking, the City shall apply a maximum of 12 additional points for SLBE or ELBE participation. Points will be awarded as follows:

- a. 20% participation – 5 points
  - b. 25% participation – 10 points
  - c. SLBE or ELBE as prime contractor – 12 points
2. All professional services contracts valued over \$50,000 or more have a voluntary SLBE/ELBE goal of 20%. For the purposes of this Council Policy, the subcontractor requirement may be met by a provider of materials or supplies. Details can be found at <http://www.sandiego.gov/eoc/boc/slbe.shtml>.

- B. Subcontractor Participation List. The Subcontractor Participation List (Attachment BB) shall indicate the Name and Address, Scope of Services, Percent of Total Proposed Contract Amount, Certification Status and Where Certified for each proposed Subcontractor/Subconsultant.
- C. Commitment Letters. Consultant shall also submit Subcontractor Commitment Letters on Subcontractor's letterhead, no more than one page each, from all proposed Subcontractors to acknowledge their commitment to the team, scope of services, and percent of participation in the project.
- D. Contract Activity Reports. To permit monitoring of the winning Consultant's commitment to achieving compliance, Contract Activity Reports (Attachment CC) reflecting work performed by Subcontractors/Subconsultants/Vendors shall be submitted quarterly for any work covered under an executed contract.

V. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion.

- A. Consultants are required to submit the following information with their proposals:
  - 1. Outreach Efforts. Description of Consultant's outreach efforts undertaken on this project to make subcontracting opportunities available to all interested and qualified firms including SLBE/ELBE/DBE/MBE/WBE/DVBE/OBE.
  - 2. Past Participation Levels. The Consultant shall list all Subcontractor and Supplier past participation levels on each project (preferably in the City or County of San Diego) in response to Section 6.2.3 of the RFP by using the Past Participation List (Attachment DD). Include the name of project, type of project, value of project, Subcontractor and Supplier firm name, Subcontract amount and identification of the firm's ownership as a certified Minority Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), Other Business Enterprise (OBE), Emerging Local Business Enterprise (ELBE) or Small Local Business Enterprise (SLBE). To receive credit for past participation levels by certified firms, Consultant shall provide copies of all listed consultant's certifications with the Proposal.
  - 3. Equal Opportunity Employment. Listing of Consultant's strategies to recruit, hire, train and promote a diverse workforce. These efforts will be considered in conjunction with Consultant's *Workforce Report* as compared to the County's Labor Force Availability.

4. Community Activities. Listing of Consultant's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.
- B. In accordance with the City's Equal Opportunity Commitment,<sup>7</sup> the City will consider the four factors described above as part of the evaluation process. A maximum of 13 additional points will be awarded based on consideration of these four factors. Points awarded based on Consultants demonstrated commitment to equal opportunity will be in addition to any points awarded for SLBE or ELBE participation as described in Section IV.

## VI. Definitions.

Certified **"Minority Business Enterprise" (MBE)** means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified **"Women Business Enterprise" (WBE)** means a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(s). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified **"Disadvantaged Business Enterprise" (DBE)** means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(s). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified **"Disabled Veteran Business Enterprise" (DVBE)** means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(s).

**"Other Business Enterprise" (OBE)** means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

**"Emerging Local Business Enterprise" (ELBE)** – Any for-profit enterprise that is not a broker, that is independently owned and operated; that is not a subsidiary of another business; that meets the definition of a local business; and that is not dominant in its field of operation whose average gross annual receipts in the prior three fiscal years do not exceed:

- \$2.75 million – Construction
- \$1.5 million – Specialty Construction
- \$1.5 million – Goods/Materials/Services
- \$1.5 million – Trucking
- \$1.0 million – Professional Services and Architect/Engineering

## EXHIBIT D

If a business has not existed for 3 years, the gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.

**“Local Business Enterprise” (LBE)** – A firm having a Principal Place of Business and a Significant Employment Presence in San Diego City or County, California that has been in operation for 12 consecutive months and a valid business tax certificate. This definition is subsumed within the definition of Small Local Business Enterprise.

**“Small Local Business Enterprise” (SLBE)** – Any for-profit enterprise that is not a broker, that is independently owned and operated; that is not a subsidiary of another business; that meets definition of a local business; and that is not dominant in its field of operation whose average gross annual receipts in the prior three fiscal years do not exceed:

- \$5.0 million – Construction
- \$3.0 million – Specialty Construction
- \$3.0 million – Goods/Materials/Services
- \$3.0 million – Trucking
- \$2.0 million – Professional Services and Architect/Engineering\*

California State certified Micro and Disabled Veteran Owned business enterprises shall also satisfy the income requirements to be defined as a Small Local Business Enterprise.

If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.

### VII. Certification.

Below are the EOCP – accepted certification agencies along with certifiable groups:

City of San Diego:	ELBE, SLBE
Caltrans:	DBE, SMBE, SWBE
Dept. of General Services:	DVBE
CA Public Utilities Commission:	MBE, WBE
City of Los Angeles:	DBE, WBE, MBE
SD Regional Minority Supplier Diversity Council:	MBE, WBE

### VIII. List of Attachments.

- AA. Work Force Report
- BB. Subcontractors List
- CC. Contract Activity Report
- DD. Consultant Past Participation List



City of San Diego

**EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)**

1010 Second Avenue • Suite 1400 • MS 614C • San Diego, CA 92101

Phone: (619) 533-3450 • Fax: (619) 533-3633

**WORK FORCE REPORT****ADMINISTRATIVE**

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

**CONTRACTOR IDENTIFICATION**

Type of Contractor: ☐ Construction ☐ Vendor/Supplier ☐ Financial Institution ☐ Lessee/Lessor  
☒ Consultant ☐ Grant Recipient ☐ Insurance Company ☐ Other

Name of Company: Chen Ryan Associates, Inc.

AKA/DBA: \_\_\_\_\_

Address (Corporate Headquarters, where applicable): 239 Laurel Street, Suite 203City San Diego County San Diego State California Zip 92101Telephone Number: (858) 349-5330 FAX Number: ( ) NAName of Company CEO: Monique Chen, PE

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: \_\_\_\_\_

City \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_ FAX Number: ( ) \_\_\_\_\_

Type of Business: Transportation Planning/Traffic Engineering Type of License: Traffic EngineeringThe Company has appointed: Sherry Ryan

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 239 Laurel Street, Suite 203 San Diego, CA 92101Telephone Number: (858) 349-5330 FAX Number: ( ) NA☐ One San Diego County (or Most Local County) Work Force - Mandatory☐ Branch Work Force \*☐ Managing Office Work Force*Check the box above that applies to this WFR.**\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*I, the undersigned representative of Chen Ryan Associates, Inc.

(Firm Name)

San Diego

(County)

California

(State)

hereby certify that information provided

herein is true and correct. This document was executed on this 17th day of October, 2014.

  
(Authorized Signature)
Sherry Ryan

(Print Authorized Signature)

WORK FORCE REPORT – NAME OF FIRM: Chen Ryan Associates, Inc. DATE: 10-16-14

OFFICE(S) or BRANCH(ES): San Diego COUNTY: San Diego

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- |  |  |
|--|--|
| (1) Black, African-American                          | (5) Filipino                                       |
| (2) Hispanic, Latino, Mexican-American, Puerto Rican | (6) White, Caucasian                               |
| (3) Asian, Pacific Islander                          | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo                          |  |

OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial														
Professional			1		1	1					4	1		
A&E, Science, Computer														
Technical														
Sales														
Administrative Support				1								1		
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column			1	1	1	1					4	2		
--------------------	--	--	---	---	---	---	--	--	--	--	---	---	--	--

Grand Total All Employees	10
---------------------------	----

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

## SUBCONTRACTOR PARTICIPATION LIST

This list shall include the name and complete address of all Subcontractors who qualify as SLBEs or ELBEs. Contractors must also list participation by any MBE, WBE, DBE, DBVE and OBE firms. However, no additional points will be awarded for participation by these firms, except that DVBEs that are certified by the City as local businesses shall be counted as SLBEs.

Contractor shall also submit Subcontractor commitment letters on Subcontractor's letterhead, no more than one page each, from Subcontractors listed below to acknowledge their commitment to the team, scope of services, and percent of participation in the project.

Subcontractors shall be used in the percentages listed. No changes to this Participation List will be allowed without prior written City approval.

NAME AND ADDRESS SUBCONTRACTORS	SCOPE OF SERVICES	PERCENT OF CONTRACT	SLBE/ELBE (MBE/ WBE/DBE/ DVBE/OBE*)	WHERE CERTIFIED**
AECOM 1420 Kettner Blvd, Suite 500 San Diego, CA 92101	Land Use Planning, Community Outreach, Urban Design	37%	OBE	N/A

List of Abbreviations:

**Small Local Business Enterprise**  
**Emerging Local Business Enterprise**  
 Certified Minority Business Enterprise  
 Certified Woman Business Enterprise  
 Certified Disadvantaged Business Enterprise  
 Certified Disabled Veteran Business Enterprise  
 Other Business Enterprise

**SLBE**  
**ELBE**  
 MBE\*  
 WBE\*  
 DBE\*  
 DVBE\*  
 OBE\*

\* Listed for informational purposes only.

\*\* Consultant shall indicate if Subcontractor is certified by one of the agencies listed in Section VII of the Equal Opportunity Contracting Program (EOCP) Consultant Requirements.



# CONTRACT ACTIVITY REPORT

Consultants are required by contract to report Subcontractor activity in this format. Reports shall be submitted via the Project Manager to the *Equal Opportunity Contracting Program (EOCP)* no later than thirty (30) days after the close of each quarter.

**PROJECT:** \_\_\_\_\_ **PRIME CONTRACTOR:** \_\_\_\_\_

**CONTRACT AMOUNT:**\_\_\_\_\_ **INVOICE PERIOD:**\_\_\_\_\_ **DATE:**\_\_\_\_\_

Include Additional Services Not-to-Exceed Amount

[illegible]

Completed by: \_\_\_\_\_

## CONSULTANT PAST PARTICIPATION LIST

The Consultant shall complete this form for each project listed in response to the RFP. The Consultant Past Participation List shall include name, address, telephone number (including area code), classification, type of work, dollar amount of participation, certification, and certifying agency for each Subcontractor or Supplier who participated in the referenced project.

NAME OF PROJECT: City of San Diego Commercial / Imperial Corridor Master Plan [Chen Ryan Associates is subcontractor to Dyett & Bhatia]

TYPE OF PROJECT: Mobility Analyses and Mobility Design Conceptual Plans DOLLAR VALUE OF CONTRACT: \$90,000

NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR	CONTRACTOR, DESIGNER, SUPPLIER, OR VENDOR	TYPE OF WORK PERFORMED, MATERIALS OR SUPPLIES	DOLLAR AMOUNT OF SUBCONTRACTOR PARTICIPATION OR MATERIALS OR SUPPLIES	MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB <sup>®</sup>	WHERE CERTIFIED <sup>®</sup>
Name: <u>NA</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____	NA	NA	NA	NA	NA
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____					
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____					

① As appropriate, Consultant shall identify Subcontractors or Suppliers as one of the following and shall include a valid proof of certification (except for OBE):

Certified Minority Business Enterprise	MBE	Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE	Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE	Certified Emerging Local Business Enterprise	ELBE
Certified Small Local Business Enterprise	SLBE	Small Disadvantaged Business	SDB
Woman-Owned Small Business	WoSB	HUBZone Business	HUBZone
Service-Disabled Veteran Owned Small Business	SDVOSB		

② As appropriate, Consultant shall indicate if Subcontractor or Supplier is certified by:

City of San Diego	CITY	State of California Department of Transportation	CALTRANS
California Public Utilities Commission	CPUC	San Diego Regional Minority Supplier Diversity Council	SRMSDC
State of California's Department of General Services	CADoGS	City of Los Angeles	LA
State of California	CA	U.S. Small Business Administration	SBA

**The Consultant will not receive any points for past subcontracting participation percentages if the Consultant fails to submit the required proof of certification.**

## CONSULTANT PAST PARTICIPATION LIST

The Consultant shall complete this form for each project listed in response to the RFP. The Consultant Past Participation List shall include name, address, telephone number (including area code), classification, type of work, dollar amount of participation, certification, and certifying agency for each Subcontractor or Supplier who participated in the referenced project.

NAME OF PROJECT: City of San Diego Southeastern San Diego and Encanto Community Plan Update [Chen Ryan Associates is subcontractor to Dyett & Bhatia]

TYPE OF PROJECT: Circulation Element Update DOLLAR VALUE OF CONTRACT: \$149,340

NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR	CONTRACTOR DESIGNER, SUPPLIER OR VENDOR	TYPE OF WORK PERFORMED, MATERIALS OR SUPPLIES	DOLLAR AMOUNT OF SUBCONTRACTOR PARTICIPATION OR MATERIALS OR SUPPLIES	MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB®	WHERE CERTIFIED®
Name: <u>NA</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____	NA	NA	NA	NA	NA
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____					
Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____					

① As appropriate, Consultant shall identify Subcontractors or Suppliers as one of the following and shall include a valid proof of certification (except for OBE):

Certified Minority Business Enterprise	MBE	Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE	Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE	Certified Emerging Local Business Enterprise	ELBE
Certified Small Local Business Enterprise	SLBE	Small Disadvantaged Business	SDB
Woman-Owned Small Business	WoSB	HUBZone Business	HUBZone
Service-Disabled Veteran Owned Small Business	SDVOSB		

② As appropriate, Consultant shall indicate if Subcontractor or Supplier is certified by:

City of San Diego	CITY	State of California Department of Transportation	CALTRANS
California Public Utilities Commission	CPUC	San Diego Regional Minority Supplier Diversity Council	SRMSDC
State of California's Department of General Services	CADoGS	City of Los Angeles	LA
State of California	CA	U.S. Small Business Administration	SBA

The Consultant will not receive any points for past subcontracting participation percentages if the Consultant fails to submit the required proof of certification.

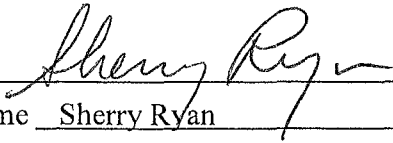
**CONSULTANT CERTIFICATION FOR A DRUG-FREE WORKPLACE**

**PROJECT TITLE:** Palm Avenue Revitalization Plan

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

Chen Ryan Associates, Inc.  
Name under which business is conducted

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subconsultants agreement to abide by the provisions of Section 4.9.1 subdivisions A through C of the policy as outlined.

Signed   
Printed Name Sherry Ryan  
Title Principal  
Date 10-17-2014

# CITY OF SAN DIEGO

**EXHIBIT F**

## Consultant Performance Evaluation

The purpose of this form is to provide historical data to City staff when selecting consultants.

### Section I

1. PROJECT DATA		2. CONSULTANT DATA																									
1a. Project (title, location):  1b. Brief Description:  1c. Budgeted Cost: \$ _____ WBS/IO: _____	2a. Name and address of Consultant:  2b. Consultant's Project Manager: <div style="text-align: right;">Phone: ( ) _____</div>																										
3. CITY DEPARTMENT RESPONSIBLE																											
3a. Department (include Division):	3b. Project Manager (address & phone):  <div style="text-align: right;">Phone: ( ) _____</div>																										
4. CONTRACT TYPE, DESIGN AND CONSTRUCTION																											
<b>4. Design</b>																											
4a. Agreement Date: _____ Resolution #: R- _____ \$ _____ 4b. Amendment(s): \$ _____ / # _____ (City) \$ _____ / # _____ (Consultant) 4c. Total Agreement (4a. & 4b.): \$ _____																											
4d. Type of Work (design, study, etc.):	4e. Key Contract Completion Dates: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">_____ %</td> <td style="text-align: right;">_____ %</td> <td style="text-align: right;">_____ %</td> <td style="text-align: right;">_____ %</td> <td style="text-align: right;">_____ %</td> <td style="text-align: right;">100 %</td> </tr> <tr> <td style="text-align: right;">Agreement</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> </tr> <tr> <td style="text-align: right;">Delivery</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> </tr> <tr> <td style="text-align: right;">Acceptance</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> <td style="text-align: right;">_____</td> </tr> </table>			_____ %	_____ %	_____ %	_____ %	_____ %	100 %	Agreement	_____	_____	_____	_____	_____	Delivery	_____	_____	_____	_____	_____	Acceptance	_____	_____	_____	_____	_____
_____ %	_____ %	_____ %	_____ %	_____ %	100 %																						
Agreement	_____	_____	_____	_____	_____																						
Delivery	_____	_____	_____	_____	_____																						
Acceptance	_____	_____	_____	_____	_____																						
<b>5. Construction</b>																											
5a. Contractor _____ (name and address) _____ Phone ( ) _____ 5b. Superintendent _____																											
5c. Notice to Proceed _____ (date) 5d. Working days _____ (number) 5e. Actual Working days _____ (number)	5f. Change Orders: Errors/Omissions _____ % of const. cost \$ _____ Unforeseen Conditions _____ % of const. cost \$ _____ Changed Scope _____ % of const. cost \$ _____ Changes Quantities _____ % of const. cost \$ _____ Total Construction Cost \$ _____																										
6. OVERALL RATING (Please circle in column that is completed)																											
	Excellent	Satisfactory	Poor																								
6a. Plans/Specification Accuracy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																								
Consistency with Budget	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																								
Responsiveness to City Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																								
6b. Overall Rating _____																											
7. AUTHORIZING SIGNATURE																											
7a. Project Manager _____ Date _____ 7b. Deputy Director _____ Date _____																											

(4/91)

**TURN OVER**

City of San Diego Purchasing & Contracting Department  
**CONTRACTOR STANDARDS**  
*Pledge of Compliance*

Effective December 24, 2008, the Council of the City of San Diego adopted Ordinance No. O-19808 to extend the Contractor Standards Ordinance to all contracts greater than \$50,000. The intent of the Contractor Standards clause of San Diego Municipal Code §22.3224 is to ensure the City of San Diego conducts business with firms that have the necessary quality, fitness and capacity to perform the work set forth in the contract.

To assist the Purchasing Agent in making this determination and to fulfill the requirements of §22.3224(d), each bidder/proposer must complete and submit this *Pledge of Compliance* with the bid/proposal. If a non-competitive process is used to procure the contract, the proposed contractor must submit this completed *Pledge of Compliance* prior to execution of the contract. A submitted *Pledge of Compliance* is a public record and information contained within will be available for public review for at least ten (10) calendar days, except to the extent that such information is exempt from disclosure pursuant to applicable law.

All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, respondents must use the *Pledge of Compliance Attachment "A"* and sign each page. The signatory guarantees the truth and accuracy of all responses and statements. Failure to submit this completed *Pledge of Compliance* may make the bid/proposal non-responsive and disqualified from the bidding process. If a change occurs which would modify any response, Contractor must provide the Purchasing Agent an updated response within thirty (30) calendar days.

**A. PROJECT TITLE:**

Palm Avenue Revitalization Plan

**B. BIDDER/CONTRACTOR INFORMATION:**

Chen Ryan Associates, Inc.

Legal Name	DBA
239 Laurel Street, Suite 203	CA 92101
Street Address	City
Sherry Ryan, Principal	(858) 349-5330
Contact Person, Title	Phone
	Fax

**C. OWNERSHIP AND NAME CHANGES:**

1. In the past five (5) years, has your firm changed its name?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to list all prior legal and DBA names, addresses and dates when used. Explain the specific reasons for each name change.

2. In the past five (5) years, has a firm owner, partner or officer operated a similar business?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to list names and addresses of all businesses and the person who operated the business. Include information about a similar business only if an owner, partner or officer of your firm holds or has held a similar position in another firm.

## EXHIBIT G

D. **BUSINESS ORGANIZATION/STRUCTURE:** Indicate the organizational structure of your firm. Check one only on this page. Use *Pledge of Compliance Attachment "A"* if more space is required.

☒ **Corporation** Date incorporated: 11/26/2012 State of incorporation: CA

List corporation's current officers: President: Monique Chen  
Vice Pres: Sherry Ryan  
Secretary: Sherry Ryan  
Treasurer: Monique Chen

Is your firm a publicly traded corporation? ☐ Yes ☒ No

If Yes, name those who own five percent (5%) or more of the corporation's stocks:

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☐ **Limited Liability Company** Date formed: \_\_\_\_/\_\_\_\_/\_\_\_\_ State of formation: \_\_\_\_

List names of members who own five percent (5%) or more of the company:

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☐ **Partnership** Date formed: \_\_\_\_/\_\_\_\_/\_\_\_\_ State of formation: \_\_\_\_

List names of all firm partners:

---

---

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☐ **Sole Proprietorship** Date started: \_\_\_\_/\_\_\_\_/\_\_\_\_

List all firms you have been an owner, partner or officer with during the past five (5) years. Do not include ownership of stock in a publicly traded company:

---

---

---

☐ **Joint Venture** Date formed: \_\_\_\_/\_\_\_\_/\_\_\_\_

List each firm in the joint venture and its percentage of ownership:

---

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**Note:** Each member of a Joint Venture must complete a separate *Contractor Standards Pledge of Compliance* for a Joint Venture's submission to be considered responsive.

## EXHIBIT G

### E. FINANCIAL RESOURCES AND RESPONSIBILITY:

1. Is your firm in preparation for, in the process of, or in negotiations toward being sold?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances, including name of the buyer and principal contact information.

2. In the past five (5) years, has your firm been denied bonding?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances; include bonding company name.

3. In the past five (5) years, has a bonding company made any payments to satisfy claims made against a bond issued on your firm's behalf or a firm where you were the principal?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances.

### F. PERFORMANCE HISTORY:

1. In the past five (5) years, has your firm been found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for defaulting or breaching a contract with a government agency?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances.

2. In the past five (5) years, has a government agency terminated your firm's contract prior to completion?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances and provide principal contact information.

### G. COMPLIANCE:

1. In the past five (5) years, has your firm or any firm owner, partner, officer, executives or management been criminally penalized or found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement for violating any federal, state or local law in performance of a contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances surrounding each instance; include name of entity involved, specific infraction(s) or violation(s), dates of instances, and outcome with current status.

2. In the past five (5) years, has your firm been debarred or determined to be non-responsible by a government agency?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include name of entity involved, specific infraction, dates, and outcome.



**H. BUSINESS INTEGRITY:**

1. In the past five (5) years, has your firm been convicted of or found liable in a civil suit for making a false claim or material misrepresentation to a private or governmental entity?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include the entity involved, specific infraction(s) or violation(s), dates, outcome and current status.

2. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a crime, including misdemeanors, or been found liable in a civil suit involving the bidding, awarding, or performance of a government contract?

☐ Yes ☒ No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

**I. TYPE OF SUBMISSION:** This document is submitted as:

☒ Initial submission of *Contractor Standards Pledge of Compliance*.

☐ Update of prior *Contractor Standards Pledge of Compliance* dated \_\_\_\_/\_\_\_\_/\_\_\_\_.


**Complete all questions and sign below. Each Pledge of Compliance Attachment "A" page must be signed.**

Under penalty of perjury under the laws of the State of California, I certify I have read and understand the questions contained in this *Pledge of Compliance* and that I am responsible for completeness and accuracy of responses and all information provided is true to the best of my knowledge and belief. I further certify my agreement to the following provisions of San Diego Municipal Code §22,3224:

- (a) To comply with all applicable local, State and Federal laws, including health and safety, labor and employment, and licensing laws that affect the employees, worksite or performance of the contract.
- (b) To notify the Purchasing Agent within fifteen (15) calendar days upon receiving notification that a government agency has begun an investigation of the Contractor that may result in a finding that the Contractor is or was not in compliance with laws stated in paragraph (a).
- (c) To notify the Purchasing Agent within fifteen (15) calendar days when there has been a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).
- (d) To provide the Purchasing Agent updated responses to the *Contractor Standards Pledge of Compliance* within thirty (30) calendar days if a change occurs which would modify any response.
- (e) To notify the Purchasing Agent within fifteen (15) days of becoming aware of an investigation or finding by a government agency or court of competent jurisdiction of a violation by a subcontractor of laws stated in paragraph (a).
- (f) To cooperate fully with the Purchasing Agent and the City during any investigation and to respond to a request for information within ten (10) working days from the request date.

**Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive.**

Sherry Ryan, Principal  
Print Name, Title

  
Signature

10-17-2014

Date

City of San Diego Purchasing & Contracting Department  
CONTRACTOR STANDARDS

*Pledge of Compliance Attachment "A"*

Provide additional information in space below. Use additional *Pledge of Compliance Attachment "A"* pages as needed; sign each page. Print in ink or type responses and indicate question being answered. Information provided will be available for public review, except if exempt from disclosure pursuant to applicable law.

NA

Under penalty of perjury under the laws of the State of California, I certify I have read and understand the questions contained in this *Contractor Standards Pledge of Compliance* and that I am responsible for completeness and accuracy of responses on this *Pledge of Compliance Attachment "A"* page and all information provided is true to the best of my knowledge.

Sherry Ryan, Principal  
Print Name, Title

Sherry Ryan  
Signature

10-27-14  
Date

**INSTRUCTION SHEET FOR  
DISCLOSURE DETERMINATION FOR CONSULTANT  
(Form CC-1671)**

Use the "Disclosure Determination for Consultant" form (CC-1671) to report the disclosure requirement for any consultant hired to provide services to the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction.

2 California Code of Regulations defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency, either makes a governmental decision or serves in a staff capacity with the state or local government agency and in that capacity participates in making a governmental decision. For the complete definition of "consultant", refer to Government Code section 18701(a)(2). This section can be located at:

[http://www.fppc.ca.gov/index.html?ID=52&r\\_id=/legal/regs/18701.htm](http://www.fppc.ca.gov/index.html?ID=52&r_id=/legal/regs/18701.htm)

The "Disclosure Determination for Consultant" form is completed for all consultants under contract with the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction. Please follow the step-by-step directions:

1. List the department, board, commission or agency requesting the consultant service.
2. List the consulting company. If known, also list the individual(s) who will be providing the consultant services.
3. List the mailing address.
4. List the e-mail address of individual(s) providing the consultant service.
5. Provide the date the individual(s) will start providing the consultant service.
6. List all duties/responsibilities the consultant will have. This list will enable you to determine the disclosure requirement for the consultant.
7. Determine the consultant's disclosure category. Your consultant should be required to disclose only those economic interests which could potentially create a conflict of interest as he/she performs his/her contractual obligations. For ideas about possible disclosure categories, review those in your department's, board's, commission's or agency's conflict of interest code, available at:

[www.sandiego.gov/city-clerk/elections/eid/codes.shtml](http://www.sandiego.gov/city-clerk/elections/eid/codes.shtml)

Please fill out the entire "Disclosure Determination for Consultant" form, and have it signed by the appropriate authority. (Individuals with signing authority are described in your conflict of interest code as part of the disclosure requirement for Consultants.) Forward the original form to the City Clerk's Office, MS 2A.

## DISCLOSURE DETERMINATION FOR CONSULTANT

*\*Must be signed by department director, agency president or other individual authorized by the appropriate conflict of interest code regarding consultants.*

1. Department / Board / Commission / Agency Name: Planning Department
2. Name of Specific Consultant & Company: Chen Ryan Associates, Inc.
3. Address, City, State, ZIP: 239 Laurel Street, Suite 203 | San Diego, CA  
CA 92101
4. Project Title (as shown on 1472, "Request for Council Action") Agreement for traffic engineering services  
related to the Palm Avenue Revitalization Plan
5. Consultant Duties for Project: Traffic engineering services to assist staff in  
preparation of a multi-modal mobility plan in  
Otay Mesa-Nestor
6. Disclosure Determination [select applicable disclosure requirement]:



Consultant will not be "making a governmental decision" or "serving in a staff capacity."  
No disclosure required.

- or -



Consultant will be "making a governmental decision" or "serving in a staff capacity."  
Consultant is required to file a Statement of Economic Interests with the City Clerk of the  
City of San Diego in a timely manner as required by law. [Select consultant's disclosure  
category.]



Full: Disclosure is required pursuant to the broadest disclosure category in the  
appropriate Conflict of Interest Code.

- or -



Limited: Disclosure is required to a limited extent. [List the specific economic  
interests the consultant is required to disclose.]

By: Manny Bragado  
[Name/Title] Deputy Director

11/3/14  
[Date]

## EXHIBIT H

### DEFINITION OF "CONSULTANT"

2 California Code of Regulations defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;
5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
6. Grant City approval to a plan, design, report, study, or similar item;
7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or

(B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

An individual "serves in a staff capacity" if he or she performs substantially all the same tasks that normally would be performed by staff member of a governmental entity. In most cases, individuals who work on only one project or a limited range of projects for an agency are not considered to be working in a "staff capacity." The length of the individual's service to the agency is relevant. Also, the tasks over the relevant period of time must be substantially the same as a position that is or should be specified in the City's conflict of interest code.

An individual "participates in making a governmental decision" if he or she: (1) negotiates, without substantive review, with a governmental entity or private person regarding the decision; or (2) advises or makes recommendations to the decision-maker, by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the individual and the individual is attempting to influence the decision.

**EQUAL BENEFITS ORDINANCE  
CERTIFICATION OF COMPLIANCE**

# EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE



For additional information, contact:

CITY OF SAN DIEGO  
EQUAL BENEFITS PROGRAM

202 C Street, MS 9A, San Diego, CA 92101  
Phone (619) 533-3948 Fax (619) 533-3220

## COMPANY INFORMATION

Company Name: Chen Ryan Associates, Inc.	Contact Name: Sherry Ryan
Company Address: 239 Laurel Street, Suite 203 San Diego, CA 92101	Contact Phone: (858) 349-5330
	Contact Email: sryan@chenryanmobility.com

## CONTRACT INFORMATION

Contract Title: Palm Avenue Revitalization Plan	Start Date: November 2014
Contract Number (if no number, state location): H146241	End Date: February 2016

## SUMMARY OF EQUAL BENEFITS ORDINANCE REQUIREMENTS

The Equal Benefits Ordinance [EBO] requires the City to enter into contracts only with contractors who certify they will provide and maintain equal benefits as defined in San Diego Municipal Code §22.4302 for the duration of the contract. To comply:

- Contractor shall offer equal benefits to employees with spouses and employees with domestic partners.
  - Benefits include health, dental, vision insurance; pension/401(k) plans; bereavement, family, parental leave; discounts, child care; travel/relocation expenses; employee assistance programs; credit union membership; or any other benefit.
  - Any benefit not offered to an employee with a spouse, is not required to be offered to an employee with a domestic partner.
- Contractor shall post notice of firm's equal benefits policy in the workplace and notify employees at time of hire and during open enrollment periods.
- Contractor shall allow City access to records, when requested, to confirm compliance with EBO requirements.
- Contractor shall submit *EBO Certification of Compliance*, signed under penalty of perjury, prior to award of contract.

NOTE: This summary is provided for convenience. Full text of the EBO and its Rules are posted at [www.sandiego.gov/administration](http://www.sandiego.gov/administration).

## CONTRACTOR EQUAL BENEFITS ORDINANCE CERTIFICATION

Please indicate your firm's compliance status with the EBO. The City may request supporting documentation.

- ☒ I affirm compliance with the EBO because my firm (*contractor must select one reason*):
- ☒ Provides equal benefits to spouses and domestic partners.
  - ☐ Provides no benefits to spouses or domestic partners.
  - ☐ Has no employees.
  - ☐ Has collective bargaining agreement(s) in place prior to January 1, 2011, that has not been renewed or expired.
- ☐ I request the City's approval to pay affected employees a cash equivalent in lieu of equal benefits and verify my firm made a reasonable effort but is not able to provide equal benefits upon contract award. I agree to notify employees of the availability of a cash equivalent for benefits available to spouses but not domestic partners and to continue to make every reasonable effort to extend all available benefits to domestic partners.

It is unlawful for any contractor to knowingly submit any false information to the City regarding equal benefits or cash equivalent associated with the execution, award, amendment, or administration of any contract. [San Diego Municipal Code §22.4307(a)]

Under penalty of perjury under laws of the State of California, I certify the above information is true and correct. I further certify that my firm understands the requirements of the Equal Benefits Ordinance and will provide and maintain equal benefits for the duration of the contract or pay a cash equivalent if authorized by the City.

Sherry Ryan, Principal  
Name/Title of Signatory

*Sherry Ryan*  
Signature

10-17-2014  
Date

## FOR OFFICIAL CITY USE ONLY

Receipt Date: EBO Analyst: ☐ Approved ☐ Not Approved – Reason:

**REGARDING INFORMATION REQUESTED UNDER THE  
CALIFORNIA PUBLIC RECORDS ACT**

The undersigned duly authorized representative, on behalf of the named Contractor declares and acknowledges the following:

**The contents of this contract and any documents pertaining to the performance of the contract requirements/Scope of Services resulting from this contract are public records, and therefore subject to disclosure unless a specific exemption in the California Public Records Act applies.**

If a Contractor submits information **clearly marked** confidential or proprietary, the City of San Diego (City) may protect such information and treat it with confidentiality only to the extent permitted by law. However, it will be the **responsibility of the Contractor** to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the California Public Records Act, should the City choose to withhold such information.

General references to sections of the California Public Records Act will not suffice. Rather, the Contractor must provide a **specific and detailed legal basis, including applicable case law** that **clearly establishes** the requested information is exempt from the disclosure requirements of the California Public Records Act.

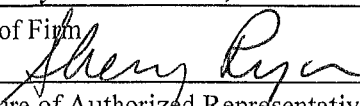
If the Contractor does not provide a specific and detailed legal basis for withholding the requested information within a time specified by the City, the City will release the information as required by the California Public Records Act and the **Contractor will hold the City harmless** for release of this information.

It will be the **Contractor's obligation to defend**, at Contractor's expense, any legal actions or challenges seeking to obtain from the City any information requested under the California Public Records Act withheld by the City at the Contractor's request. Furthermore, the Contractor shall **indemnify** the City and **hold it harmless** for any claim or liability, and **defend any action** brought against the City, resulting from the City's refusal to release information requested under the Public Records Act withheld at Contractor's request.

Nothing in this Agreement creates any obligation for the City to notify the Contractor or obtain the Contractor's approval or consent before releasing information subject to disclosure under the California Public Records Act.

Chen Ryan Associates, Inc.

Name of Firm

  
Signature of Authorized Representative

Sherry Ryan, Principal

Printed/Typed Name

10-16-2014

Date



## CONSULTANT CERTIFICATION

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### AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE CERTIFICATION

PROJECT TITLE: Palm Avenue Revitalization Plan

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-4 regarding the Americans With Disabilities Act (ADA) outlined in Article IV, "ADA Certification", of the Agreement, and that;

Chen Ryan Associates, Inc.

(Name under which business is conducted)

has in place workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of the policy as outlined.

Signed



Printed Name Sherry Ryan

Title Principal